

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 531

Judiciary II Committee Substitute Adopted 5/9/89

Short Title: Divorce/Dist. for Incompetent.

(Public)

Sponsors:

Referred to:

March 20, 1989

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE AN ACTION UNDER THE CHAPTER OF LAW CONCERNING DIVORCE AND ALIMONY TO PROTECT THE PROPERTY OF AN INCOMPETENT SPOUSE AND TO PERMIT THE ENTRY OF A DIVORCE DECREE ON BEHALF OF THE INCOMPETENT.

The General Assembly of North Carolina enacts:

Section 1. Chapter 50 of the General Statutes is amended by adding a new section to read:

**§ 50-22. Action on behalf of an incompetent.**

A general guardian for an incompetent spouse may commence, defend or maintain any action authorized by this Chapter. As an exception to G.S. 50-21, the court may order equitable distribution on behalf of an incompetent spouse without entering a decree of divorce.

Sec. 2. G.S. 50-21(a) reads as rewritten:

"(a) At any time after a husband and wife begin to live separate and apart from each other, a claim for equitable distribution may be filed, either as a separate civil action, or together with any other action brought pursuant to Chapter 50 of the General Statutes, or as a motion in the cause as provided by G.S. 50-11(e) or (f). During the pendency of any such action for equitable distribution, discovery may proceed, and the court may enter temporary orders as appropriate and necessary for the purpose of preventing the disappearance, waste, or destruction of marital or separate property or to secure the possession thereof.

1 A judgment for an equitable distribution shall not be entered prior to entry of a  
2 decree of absolute divorce, except as provided in G.S. 50-22, and except for a consent  
3 ~~judgment, judgment~~ which may be entered at any time during the pendency of the  
4 action.

5 Real or personal property located outside of North Carolina is subject to equitable  
6 distribution in accordance with the provisions of G.S. 50-20, and the court may include  
7 in its order appropriate provisions to ensure compliance with the order of equitable  
8 distribution."

9 Sec. 3. This act is effective upon ratification.